

AFTER RECORDING RETURN TO:
Margaret Hawker
City Recorder
City of Newport
169 SW Coast Highway
Newport, OR 97365

Lincoln County, Oregon
06/21/2016 09:19:19 AM
DOC-IRUL
2016-05793
Cnt=1 Pgs=4 Stn=20
\$20.00 \$11.00 \$20.00 \$10.00 \$7.00 - Total = \$68.00



00121170201600057930040046

I, Dana W. Jenkins, County Clerk, do hereby certify
that the within instrument was recorded in the Lincoln
County Book of Records on the above date and time.
WITNESS my hand and seal of said office affixed.

Dana W. Jenkins
Dana W. Jenkins, Lincoln County Clerk



NO CHANGE IN TAX STATEMENTS

CITY OF NEWPORT ENCROACHMENT PERMIT AGREEMENT

THIS AGREEMENT is between the City of Newport, an Oregon municipal corporation, hereinafter (City), and Edward H. Backus and Jessica A. Miller, hereinafter (Owner).

RECITALS

- A. Owner owns the real property located at 705 NW Cottage Street, Newport, Oregon 97365, (currently identified as Tax Lot 06601 of Lincoln County Assessor's Tax Map 11-11-05-CD), and legally described as Lot 2, Replat of Lots 5, 6, 19 and 20, Block 2 "Sea View Blocks."
- B. Owner desires to use a portion of the undeveloped NW Hurbert Street right-of-way adjacent to their property as a residential yard, including an existing hot tub patio, and possibly a retaining wall, if a wall is needed to address localized slope movement.

PERMIT AGREEMENT TERMS

- 1. Benefited Property:** The rights granted by this permit agreement are appurtenant to Owner's Property. Owner warrants that Owner has fee simple title or sufficient interest to Owner's Property to allow Owner to bind current and future owners of Owner's Property.
- 2. Permitted Encroachments:** City authorizes Owner to use a 25 x 100-foot portion of the NW Hurbert Street right-of-way, depicted in Exhibit A, for landscaping, maintenance of an existing hot tub patio, and the construction of a retaining wall, if a wall is needed to address localized slope movement.
- 3. Safety:** Owner agrees to maintain the permitted encroachments in good condition so that they do not become a nuisance or hazard. Owner agrees to maintain and repair only those encroachments authorized by this permit.
- 4. Indemnity.** Owner hereby agrees to defend and indemnify City and its officials and employees as to any loss, liability, claim, or demand relating to this permit or the permitted encroachment.
- 5. Termination:** This permit shall be terminated in the event of the destruction, removal, major reconstruction, major remodeling, or abandonment of the permitted encroachments. This Permit may be revoked at any time on written notice to Owner, for any reason.

6. Notice: Any notice relating to this Permit shall be effective 48 hours after mailing. Notices shall be sent to the following addresses, unless another address is provided to the other party by written notice.

CITY:

OWNER(S):

City of Newport
Attn: City Manager
169 SW Coast Highway
Newport OR 97365

Edward Backus and Jessica Miller
705 NW Cottage Street
Newport OR 97365

7. Removal of Improvements: Within five days of the termination of this permit, Owner or Owner's successor in interest, shall commence to remove the permitted encroachments and shall complete removal and restoration of the rights-of-way within 30 days.

8. Lien: City may impose a lien on Owner's property to secure performance of Owner's obligations under this permit.

9. Advice of Counsel: The parties hereto acknowledge and understand that this Encroachment Permit has been prepared by the City. Owner is aware that this permit contains substantial, binding obligations, and that Owner has the right to and should consult with Owner's attorney regarding any questions respecting the meaning or legal effect of this permit.

10. Attorneys' Fees: In the event that either party shall bring suit or action to enforce any term or provision hereof, the prevailing party shall be entitled to its reasonable attorneys' fees, including any appeal.


11. Insurance: Owner shall maintain liability insurance respecting the permitted encroachments and include the City as a named insured. This provision is for the benefit of the City and Owner and there are no intended third party beneficiaries to this provision or any other portion of this Encroachment Permit Agreement. City will have no liability or responsibility for failure to enforce this provision.

12. Binding Upon Future Owners: The terms and obligations of this Encroachment Permit Agreement shall run with Owner's Property and shall be binding on, and for the benefit of, all future owners of Owner's Property, until terminated.

CITY OF NEWPORT:

OWNER(S):

BY


Spencer Nebel, City Manager

DATE: 6-13-16


Edward H. Backus

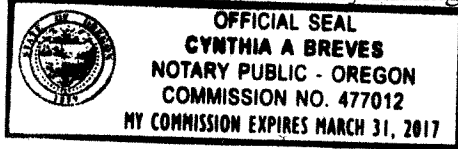
DATE: 6/20/2016


Jessica A. Miller

DATE: 6/20/16

STATE OF OREGON)
) ss.
County of Lincoln)

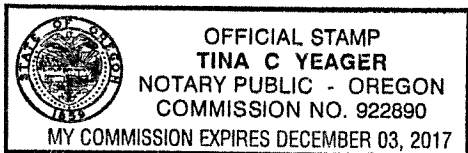
This instrument was acknowledged before me on this 13 day of June, 2016, by Spencer Nebel as City Manager of the City of Newport.



Cynthia A. Breves
Notary Public – State of Oregon

STATE OF OREGON)
) ss.
County of Lincoln)

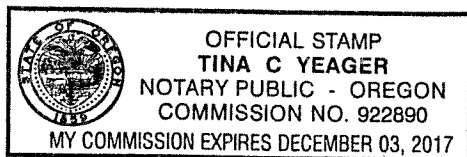
This instrument was acknowledged before me this 20 day of June, 2016, by Edward H. Backus.



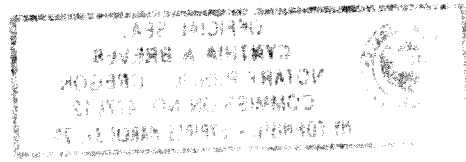
Tina Yeager
Notary Public – State of Oregon

STATE OF OREGON)
) ss.
County of Lincoln)

This instrument was acknowledged before me this 20 day of June, 2016, by Jessica A. Miller.

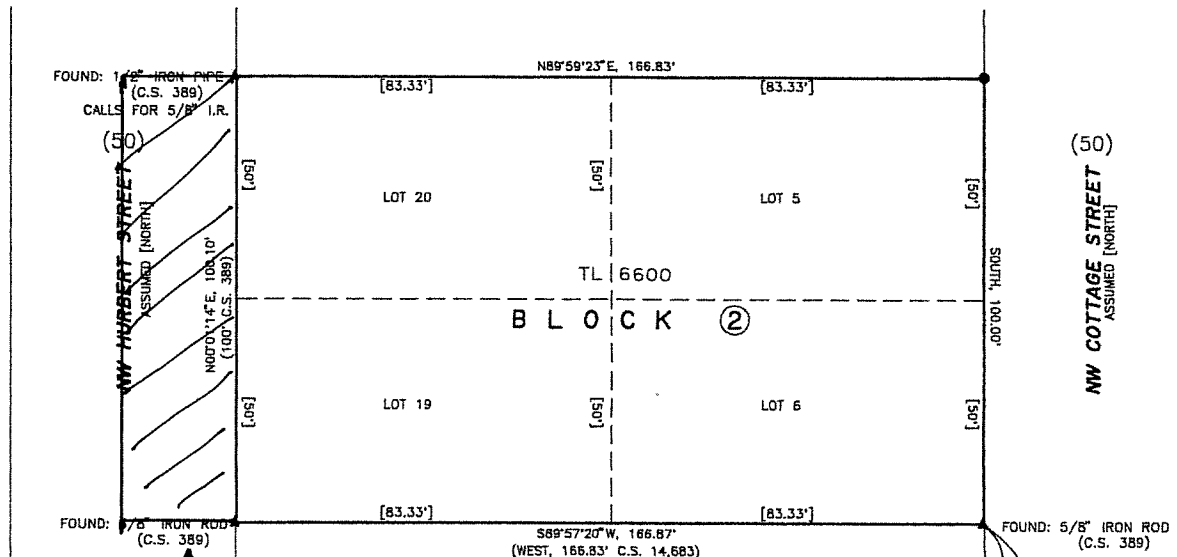


Tina Yeager
Notary Public – State of Oregon



SURVEY FOR JIMMY and GAYLE RITZ
LOTS 5, 6, 19 and 20, BLOCK 2 "SEA VIEW BLOCKS"
LOCATED IN THE SE 1/4 - SW 1/4 OF
SECTION 5, T11S, R11W, W.M.
CITY OF NEWPORT, LINCOLN COUNTY, OREGON

FILED 09 FEBRUAR 2005
LINCOLN COUNTY SURVEYOR



Proposed Encroachment (to scale)

$$25' \times 100' \\ \text{E/W} \quad \text{N/S}$$

NARRATIVE

THE PURPOSE OF THIS SURVEY IS TO LOCATE AND OR/SET MONUMENTS OF THE PROPERTY DESCRIBED IN LINCOLN COUNTY MICROFILM VOLUME 349, PAGE 0439.

FOUND AND HELD MONUMENTATION FROM C.S. 389 AND 14,883 TO CONTROL THIS SURVEY.
SET MONUMENTS HOLDING PLAT RECORD DISTANCE TO SET THE NORTHEAST CORNER LOT 5, BLOCK 2.

REFERENCE: C.S. 389, C.S. 14,683 AND PLAT OF "SEA VIEW BLOCKS" BOOK 5,
PAGE 10.

EQUIPMENT USED: NIKON A10LG (10") THEODOLITE TOTAL STATION AND 100 FOOT TAPE.

LEGEND

- MONUMENT SET: 5/8" X 30" RE-BAR WITH YELLOW PLASTIC CAP MARKED, "PLS 1994"
- ▲ MONUMENT HELD: CONTROL, AS NOTED
- △ MONUMENT NOT HELD: AS NOTED
- CALCULATED POSITION ONLY
- () RECORD INFORMATION AS NOTED
- [] RECORD INFORMATION: PLAT BOOK 5, PAGE 10
"SEAVIEW BLOCKS"



SCALE
1"=20'

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Walt Howell
OREGON
JULY 15, 1982
WALTER HOWELL
1984

RENEWAL DATE:
6-30-05

WALT HOWELL SURVEYING

-WALT HOWELL PLS 1994-
221 NE 4TH STREET
NEWPORT, OREGON 97365
[541] 574-9007

Y DRAWN BY: GAM

CHECKED BY: WH

DATE: JANUARY 2005

SCALE: 1" = 20'

PROJECT: DBMSRV